

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

KELLY DON LEDFORD,	)	
	)	
Plaintiff,	)	
v.	)	Case No. CIV-06-249-L
	)	
WILL TATE, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**REPORT AND RECOMMENDATION**

Plaintiff, a prisoner appearing *pro se*, has filed a Civil Rights Complaint Pursuant to 42 U.S.C. § 1983 and a Motion for Leave to Proceed *In Forma Pauperis*. Judge Tim Leonard has referred this matter for initial proceedings pursuant to 28 U.S.C. § 636(b)(1)(B) and (C).

By Order of this Court dated March 15, 2006 (the “March 15<sup>th</sup> Order”), Plaintiff’s Motion for Leave to Proceed *In Forma Pauperis* was granted; however, Plaintiff was directed to pay an initial partial filing fee of \$3.75 by April 3, 2006, in accordance with 28 U.S.C. §1915(b) [Doc. #5]. Plaintiff was advised that he would be required to make monthly payments of 20 percent of the preceding month’s income credited to his prison account(s) until the full \$250 filing fee was paid. Plaintiff was further advised that failure to either pay the initial partial filing fee, or show cause in writing for the failure to pay, could result in dismissal of this action without prejudice to refiling.

On April 10, 2006, rather than recommending dismissal of the action for failure to comply with the March 15<sup>th</sup> Order, the Court *sua sponte* gave Plaintiff additional time until April 25, 2006, in which to either pay the initial filing fee or voluntarily dismiss this action

[Doc. #6]. Plaintiff was again advised that failure to comply with the terms of the Order could result in dismissal of this action without prejudice to refiling.

A review of the Court file reveals that as of this date, Plaintiff has failed to comply with the Court's previous orders. Plaintiff has not made any payment, requested an extension of time within which to pay, demonstrated good cause for his failure to pay, or sought to voluntarily dismiss his action.

### **RECOMMENDATION**

For the reasons set forth above, it is recommended that the action be dismissed without prejudice for failure to comply with the requirements of 28 U.S.C. § 1915(b) and LCvR3.3.

### **NOTICE OF RIGHT TO OBJECT**

Plaintiff is advised of his right to object to this Report and Recommendation. *See* 28 U.S.C. § 636. Any objections must be filed with the Clerk of the District Court by May 29<sup>th</sup>, 2006. *See* LCvR72.1. Plaintiff is further advised that failure to make timely objection to this Report and Recommendation waives his right to appellate review of the factual and legal issues addressed herein. *Moore v. United States*, 950 F.2d 656 (10<sup>th</sup> Cir. 1991).

### **STATUS OF REFERRAL**

This Report and Recommendation disposes of all issues referred by the District Judge in this matter.

ENTERED this 8<sup>th</sup> day of May, 2006.

A handwritten signature in purple ink, reading "Valerie K. Couch". The signature is fluid and cursive, with a large, stylized "V" and "C".

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VALERIE K. COUCH  
UNITED STATES MAGISTRATE JUDGE